



**U.S. Department of Justice
U.S. Attorney's Office
Western District of Texas**

Johnny Sutton, U.S. Attorney

FOR IMMEDIATE RELEASE

August 11, 2006

Shana Jones, Special Assistant
Daryl Fields, Public Affairs Officer
(210) 384-7452

**STATEMENT OF UNITED STATES ATTORNEY JOHNNY SUTTON REGARDING THE
CONVICTION OF FORMER BORDER PATROL AGENTS COMPEAN AND RAMOS**

In response to misstatements and misinformation being reported in the media regarding the prosecution of Ignacio Ramos and Jose Alonso Compean, relating to a shooting that occurred while they were on duty as U.S. Border Patrol agents on February 17, 2005, the United States Attorney's Office for the Western District of Texas releases this advisory summarizing the evidence presented at defendants' trial.

As will be demonstrated by the summary below, the defendants were prosecuted because they had fired their weapons at a man who had attempted to surrender by holding his open hands in the air, at which time Agent Compean attempted to hit the man with the butt of Compean's shotgun, causing the man to run in fear of what the agents would do to him next. Although both agents saw that the man was not armed, the agents fired at least 15 rounds at him while he was running away from them, hitting him once.

On February 17, 2005, Border Patrol Agents Ignacio Ramos and Jose Alonso Compean were on duty along the U.S./Mexico border, working out of the Fabens Border Patrol Station. At approximately one o'clock in the afternoon, Agent Compean observed a van near the border about two and a half miles west of Fabens. According to the testimony, the driver of the van, Osvaldo Aldrete-Davila, failed to yield to Agent Ramos' attempt to stop him, jumped out of his vehicle and attempted to run back to Mexico. After Ramos told Aldrete-Davila to stop, Ramos drew his service revolver and pointed it at Aldrete-Davila. Aldrete-Davila jumped into a steep ditch filled with dirty water and when he tried to climb the steep incline out of the ditch, he was confronted by defendant Compean, waiting for him with a shotgun pointed directly at him. During his testimony, Compean acknowledged that at that time Aldrete-Davila held his hands up, as if to surrender, with his palms open, and no weapon was in either hand, or evident on his person. Another agent, who had arrived by this time and observed the scene, heard someone yell "hit him." Aldrete-Davila, who was at one time a legal resident alien of the United States and speaks some English, also heard someone yell "hit him, hit him," and specifically heard Compean yell: "*Parate, parate, Mexicano de mierda.*" ("Stop, stop you Mexican shit.") According to testimony, Compean swung his shotgun around in an attempt to hit Aldrete-Davila with the butt of his weapon, but lost his footing and fell face down into the dirt and brush. Aldrete-Davila began to run to the river and did not look back. Agent Ramos also testified that when he saw Aldrete-Davila in the ditch, he had an opportunity to look at Aldrete-Davila's hands, which he is trained to do for self defense and defense of another, and did not see any weapons in either of Aldrete-Davila's hands. When Aldrete-Davila almost reached the river, but while he was still out in the open vega area, he heard numerous gun shots. Compean fired at Aldrete-Davila at least fourteen times and Ramos fired at Aldrete-Davila once. Aldrete-Davila felt a sting in his left buttock and fell to the ground. When he reached for the location of the pain, his hand came away bloody. Fearing the shooters were about to reach his location and kill him, he turned his head and saw the two defendants holster their weapons, turn away from him and walk back north.

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Sutton Statement re: Ramos and Compean conviction

August 11, 2006

Page 2

He got up, limped to the river and returned to Mexico where he sought medical attention and learned that the bullet had caused serious injury. The bullet remained lodged in his body, causing him pain and impeding his ability to walk, until extracted by a military physician in the United States. On March 16, 2006, the bullet extracted from Aldrete-Davila's body was matched to the service weapon carried by defendant Ramos, evidencing that Ramos fired the shot that struck Aldrete-Davila.

At the time of the shooting, neither agent Compean nor agent Ramos knew that the van driven by Aldrete-Davila contained 743 pounds of marijuana. The evidence was un-controverted that, at the time the victim was shot, neither agent knew whether the driver was illegally in the United States or whether a crime had been committed. The only information they had was that the driver had failed to pull over to be identified.

According to the testimony of seven other Border Patrol agents who arrived at the scene of the incident after the shooting, neither Compean nor Ramos mentioned that the driver who absconded had a gun, or that any agent's life was in danger. Defendant Compean repeatedly denied that he had been injured by the driver and refused the supervisor's offer to file a Report of Assault on his behalf.

At the scene, Ramos told a supervisor that as the suspect fled from the vehicle, agent Compean was on the levee attempting to apprehend him. Defendant Ramos said that as the suspect tried to flee Compean either tried to grab the suspect, or did a "side to side" movement, but fell to the ground and got dirt in his eyes. Ramos did not mention the shooting, and said nothing about the suspect having a weapon. At the scene, when asked why he was so excited, Ramos told another agent that it was just the adrenalin that had him all pumped up.

An agent who encountered defendant Compean sometime later, away from the scene of the incident, testified that Compean told him, "That little bitch took me to the ground and threw dirt in my face." Compean did not indicate that he felt threatened, that his life was in danger, or that the driver had a weapon at any time. Compean did show the agent nine shell casings that he had collected at the scene and indicated he was "probably missing five more casings." Compean told the agent he had "fired some rounds...did a magazine exchange and fired some more rounds," and asked the agent to look for the additional casings. The agent proceeded to the scene of the shooting, located the additional five casings, threw them into the drainage ditch and called defendant Compean, using his cellular telephone, to tell him he had found five rounds and threw them away. The removal of the shell casings from the scene made it impossible to do a complete investigation of the shooting.

According to written Border Patrol policy, an agent who discharges his firearm at anytime, including off duty or by accident, must report the discharge to a supervisor within one hour. Both defendants Compean and Ramos had attended firearms refresher training which includes a review of this policy the day before the incident. Border Patrol policy also requires that the scene of a shooting be preserved so that the Sector Evidence Team may examine the evidence and file a written report detailing their findings so that a determination can be made of whether the discharge was justified. Evidence presented at trial indicated that, in the entire time of the defendants' employment as Border Patrol agents, every reported shooting had been ruled justified and no agent was disciplined as a result of a shooting. Defendant Ramos is a trained member of the Sector Evidence Team and a firearms instructor who teaches the discharge policy.

Sutton Statement re: Ramos and Compean conviction

August 11, 2006

Page 3

Testimony elicited at trial clearly established that, until an investigation initiated at the Washington, D.C. headquarters of the Department of Homeland Security, Office of the Inspector General began on March 4, 2005, no written report had been filed, no oral report had been made, and no person in any official capacity was cognizant of the fact that a shooting had occurred or a firearm had been discharged by any Border Patrol Agent in the direction of an individual fleeing into Mexico after having failed to stop for immigration status identification on February 17, 2005. The only report of any law enforcement activity on file for the Fabens Border Patrol Station on that date was an Immigration and Naturalization form I-44, Report of Apprehension or Seizure, authored by both defendants and signed by Jose Alonso Compean. The very brief report stated that after the driver of the van failed to pull over for an immigration check: "The driver of the van began driving back south towards Mexico. The driver was able to abscond into Mexico." The report, admitted into evidence, then indicated that immediately after the driver absconded, defendant Ramos spotted the bags of marijuana in the van. No written report exists that indicates that defendant Compean was assaulted by the driver, tussled with the driver, was threatened by the driver's actions or thought the driver had a gun. Both supervisors who arrived at the scene, after the incident was over, repeatedly asked defendant Compean if he was assaulted or injured and if he wished for them to file a Report of Assault-Service Employees, which is routinely completed if an agent reports being assaulted by a suspect. Compean did not wish such a report to be filed.

This office did not prosecute the defendants because they had violated Border Patrol policies. They were prosecuted because they had fired their weapons at a man who had attempted to surrender, but, while his open hands were held in the air, Agent Compean attempted to hit the man with the butt of his shotgun. In fear of what the agents would do to him next, the man ran away from the agents, who then fired at least 15 rounds at him, although they had seen his open hands and knew that he was not holding a weapon and had no reason to think that he had a weapon, hitting him once causing serious bodily injury. The references to policies are made only to demonstrate that had the defendants believed that the shooting was justified, there was no reason for them to conceal it from supervisors and remove evidence from the scene. The laws of the United States make it a crime for law enforcement officers to use excessive force in apprehending suspects. It is a violation of any person's Constitutional rights to shoot at them after they have attempted to surrender, knowing that they are unarmed and pose no danger to the officers or anyone else.

At the initiation of their investigation, the DHS Office of Inspector General contacted Aldrete-Davila who was at the time in Mexico. Aldrete-Davila was at first reluctant to cooperate with the investigation because he feared that should he return to the United States, he could be prosecuted for the offenses committed in relation to the load of marijuana he was driving on February 17, 2005. In order to secure his cooperation and appearance at trial in the United States, this office agreed that in return for his truthful testimony he would not be prosecuted for the February 17, 2005 offenses. The agreement does not immunize any other conduct.

Based on all of the evidence admitted at the two week trial, including the lengthy testimony of both of the defendants, the jury of twelve citizens heard all of the testimony, judged the demeanor and credibility of the witnesses and unanimously found both defendants guilty beyond a reasonable doubt of eleven of the twelve counts alleged in the indictment, including assault with a dangerous weapon, assault with serious bodily injury, discharge of a firearm during the commission of a crime of violence and wilfully violating Aldrete-Davila's Constitutional, Fourth Amendment right to be free from illegal seizure, as well as obstructing justice by intentionally defacing the crime scene, lying about the incident, and failing to report the truth.

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